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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,750	10/17/2003	Paul J. Mollinger	CPS1540-241D	1991
8698 7590 08/10/2007 STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			EXAMINER MAGUIRE, LINDSAY M	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 08/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/688,750	Applicant(s) MOLLINGER ET AL.	
	Examiner Lindsay M. Maguire	Art Unit 3692	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Final Office Action is in response to the application filed on October 17, 2003, the amendments filed on June 26, 2006, the Request for Continued Examination filed on January 22, 2007, and the amendments filed on June 13, 2007.

### ***Drawings***

The drawings were received on June 13, 2007. These drawings are accepted.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, it is noted stated within the specification that a unit that is ready for installation is formed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 and 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase, "to form a unit ready for installation" in lines 4-5 in claim 1 renders the claim indefinite as it is unclear what applicant is attempting to set forth. Specifically, it is unclear what applicant regards as "ready for installation." Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16, 18-20 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,321,500 (Manning et al. '500) in view of U.S. Pat. No. 4,492,064 (Bynoe '064).

Regarding claims 1-9, and 26-28, Manning et al. '500 disclose in figure 4, a paneling unit comprising a siding panel (30), and a backing portion secured to said siding panel. Manning et al. '500 disclose a foam panel with a solid surface but does

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not disclose that the panel has groove members. Bynoe '064 discloses roofing panels that consist of hydraulically connected drainage and connector grooves (see Figure 1; column 4, lines 30-63). Where each of the drainage and connector grooves are for the drainage of liquid and extend from one edge of the rear surface of the backing portion to another and where the connector and drainage grooves on the first portion of the rear surface of the backing system form at least a segment of a continuous groove with a surface of an adjacent rear surface when installed adjacent to a structure covered by a panel unit, and the orientation of said drainage grooves is at an angle from vertical (see Figure 1). Furthermore, the backing portion of Bynoe '064 is adhered to a backing portion (Figure 1). Therefore, it would have been obvious to one of ordinary skill in the art to modify the rear surface of the backing portion of Manning et al. '500, in view of the teachings of Bynoe '064, to include drainage and connector grooves for such a basic reason as to allow moisture drainage and to aid in the evaporation of moisture through the insulation panels to the outside atmosphere.

Regarding claims 10 and 12, Manning et al. '500 as modified, disclose a paneling unit where the orientation of the drainage grooves are generally downward relative to an installed position of the paneling unit and the connector groove is approximately horizontal along a length of the plurality of drainage grooves.

Regarding claims 15, 16, and 18-20, Manning et al. '500, as modified, disclose a paneling unit as described in claim 1, where the backing portion is comprised of a foam

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made of expanded or extruded polystyrene (column 2, lines 11-13) and where the siding panel is comprised of plastic, vinyl, or plastic vinyl material including a cellulosic filler (column 2, lines 19-30). Although Manning et al. '500 do not disclose that the siding panel comprises cellulosic filler, it is known to of ordinary skill in the art that thermoplastics include cellulose.

Regarding claims 11, 13, and 14, the applicant claims specific dimensions for the drainage and connector grooves on the backing portion. The dimensions claimed appear to be a design choice developed by basic engineering practices and not a critical aspect of the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art to orientate the drainage grooves approximately 30 degrees from vertical along a length of the plurality of drainage grooves and to have grooves dimensioned at approximately 0.0625 inches deep and 0.01875 inches wide.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manning et al. '500 in view of Bynoe '064 as applied to the above claims, and further in view of U.S. Pat. No. 6,442,912 (Philips et al. '912).

Regarding claim 17, Manning et al. '500 in view of Bynoe '064 disclose a paneling system as described in claims 1 and 12 but does not disclose that the foam backing comprises a chemical adapted to repel insects. Philips et al. '912 disclose a foam backing member comprising an aliphatic and/or aromatic polyurea spray to

prevent insects from entering the substrate. Therefore, it would have been obvious to one of ordinary skill in the art to apply a layer of the spray as taught by Philips et al. '912 to the foam member of Manning et al. '500, as modified, to prevent insects from infesting the foam layer of the panel unit.

### ***Response to Arguments***

Applicant's arguments filed June 13, 2007 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art to combine the references of Manning et al. and Byone since both are used to cover sides of a house (the roof also being a side), and both have similar if not the same goals in wanting to prevent moisture leaks, provide insulation, and prevent bugs from entering through the cracks.

In response to applicant's argument that Byone '064 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Byone '064 seeks to solve the similar problem of preventing water from becoming trapped beneath the surfaces of outer housing structures and therefore preventing damage caused to buildings by water.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

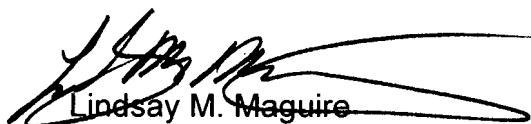
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

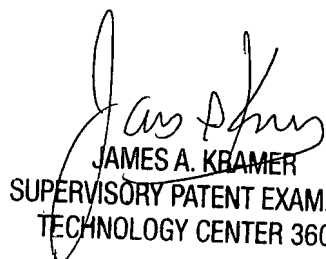


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Maguire whose telephone number is 571-272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Lindsay M. Maguire  
7/31/07

 8-1-07  
JAMES A. KRAMER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

OK  
to Enter.  
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REPLACEMENT SHEET

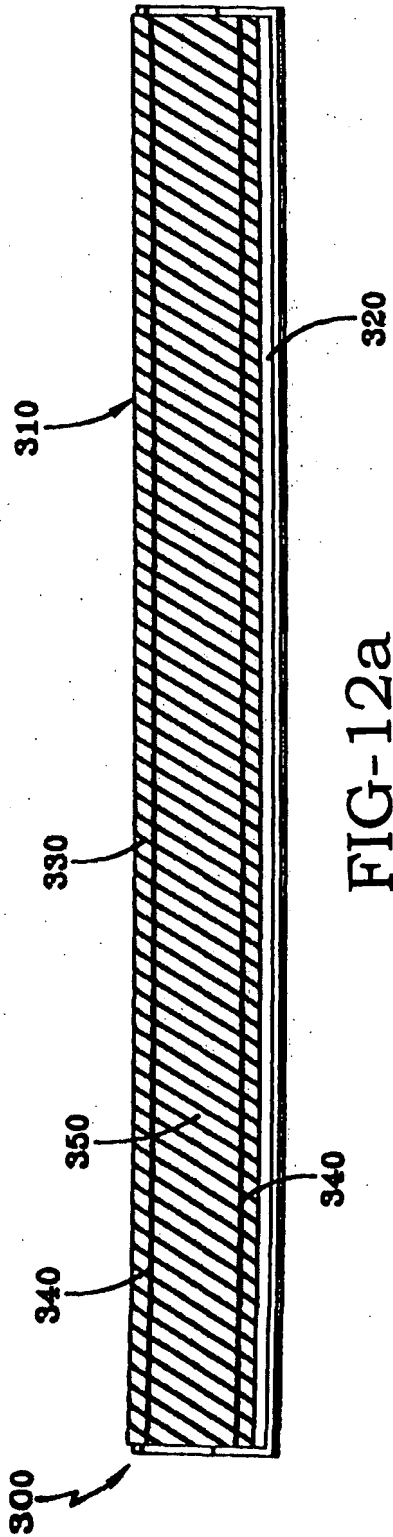


FIG-12a

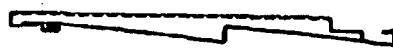


FIG-12b

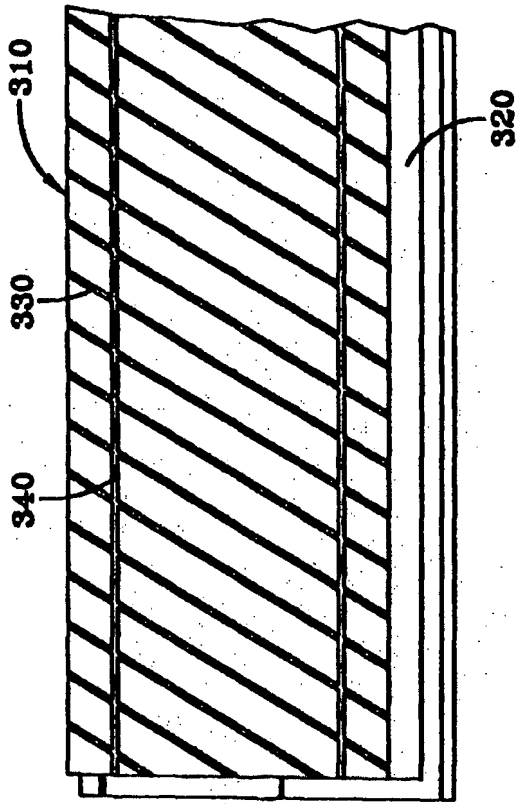


FIG-12c